

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Case No. 15-cr-117-pp

Plaintiff,

v.

TOM HORTON,

Defendant.

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**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATION (DKT. NO. 483) AND ACCEPTING DEFENDANT'S  
GUILTY PLEA**

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On November 2, 2016, the defendant and his counsel appeared before Magistrate Judge David E. Jones for a change-of-plea hearing. Dkt. No. 2. The hearing originally had been scheduled to take place before Judge Pepper, but due to her illness, Judge Jones offered to take the plea. The defendant consented to Judge Jones taking the plea; the government did not. Id. at 1. Judge Jones explained that he would make a recommendation to this court, and that this court would decide whether to accept the plea. Id.

During the plea colloquy, Judge Jones learned that the defendant recently had undergone back surgery, and had been prescribed pain medication. Id. Judge Jones questioned the defendant regarding his physical condition, and the defendant informed the judge that he had not taken the pain medication prior to the hearing, to try to keep his mind clear for the change of plea. Despite this fact, and despite the fact that the defendant was in

pain during the hearing, he assured the judge that he was physically capable of proceeding, and that he understood what was going on around him. Id. Judge Jones concluded that the defendant was competent to enter his guilty plea. Id.

Judge Jones proceeded to question the defendant about his rights, the penalties associated with the offense to which he was pleading, and this court's final authority to impose a sentence regardless of the recommendations of the probation department or the parties. Id. at 1-2. At the end of the hearing, Judge Jones concluded, and recommended that this court find, that the defendant's plea was knowing and voluntary, and supported by an independent factual basis. Id. at 2. Judge Jones recommended that this court accept the defendant's guilty plea and schedule the case for sentencing. Id.

No party has objected to Judge Jones' report and recommendation. Having reviewed the case, and in particular, the plea hearing and Judge Jones' findings, the court **ADOPTS** Judge Jones' report and recommendation. The court **ACCEPTS** defendant Tom Horton's guilty plea, finding that he made it knowingly and voluntarily, understanding his rights and the consequences of his plea. The court **ORDERS** that the probation department begin the process of preparing a presentence investigation report. The court's staff will contact the parties (including the probation officer) to schedule a date for the sentencing hearing, as well as deadlines for disclosure of the draft presentence investigation report, objections to the report, responses, the filing of letters or

other supporting documentation, and the filing of the revised presentence report.

Dated in Milwaukee, Wisconsin this 28<sup>th</sup> day of November, 2016.

**BY THE COURT:**



**HON. PAMELA PEPPER**  
United States District Judge